

1507 - 21st Street, Suite 330
Sacramento, California 95811
Telephone: (916) 445-1888
Contact Person: Holly Victor
www.nmvb.ca.gov

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board ("Board") held a General meeting on November 7, 2017, in Hearing Room #1, at the Board's offices.

2. **ROLL CALL**

Ramon Alvarez C., President and Dealer Member, called the meeting of the Board to order at 10:30 a.m.

Present:	Ramon Alvarez C. Anthony A. Batarse, Jr. Kathryn Ellen Doi David C. Lizárraga Bismarck Obando Victoria Rusnak Glenn E. Stevens	Robin P. Parker, Senior Staff Counsel Danielle R. Vare, Staff Counsel
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Absent:	Ryan L. Brooks Rahim Hassanally
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3. **PLEDGE OF ALLEGIANCE**

Mr. Stevens led the members and staff in the Pledge of Allegiance.

After the Pledge, there was a moment of silence in remembrance of William (Bill) G. Brennan, the Board's Executive Director, who recently passed away after a valiant battle with cancer. Mr. Alvarez along with the Board members and staff offered heartfelt comments and memories of Bill. Bill was beloved by all, a true gentleman, and a great friend to the Board and industry.

4. **APPROVAL OF THE MINUTES FROM THE JULY 19, 2017, GENERAL MEETING, AND OCTOBER 2, 2017, SPECIAL MEETING**

This matter was postponed until after Agenda Items 14-15.

5. DISCUSSION AND CONSIDERATION OF WHO WILL ATTEND THE OUT-OF-STATE TRIPS FOR THE 2ND HALF OF FISCAL YEAR 2017-2018 THAT WERE PREVIOUSLY APPROVED BY THE BOARD - EXECUTIVE COMMITTEE

This matter was postponed until after Agenda Items 14-15.

6. ANNUAL UPDATE CONCERNING THE DEVELOPMENT AND USE OF THE BOARD'S WEBSITE - ADMINISTRATION COMMITTEE

This matter was postponed until after Agenda Items 14-15.

7. ANNUAL REPORT ON BOARD DEVELOPMENT PROGRAM - BOARD DEVELOPMENT COMMITTEE

This matter was postponed until after Agenda Items 14-15.

8. DISCUSSION REGARDING THE 2018 NEW MOTOR VEHICLE BOARD INDUSTRY ROUNDTABLE - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE

This matter was postponed until after Agenda Items 14-15.

9. CONSIDERATION OF PROPOSED REGULATION AMENDING SECTION 551.12 (NOTICE OF ASSIGNMENT OF ADMINISTRATIVE LAW JUDGES; PEREMPTORY CHALLENGES) OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS - POLICY AND PROCEDURE COMMITTEE

This matter was postponed until after Agenda Items 14-15.

10. DISCUSSION AND CONSIDERATION OF PROPOSED REVISIONS TO THE ASSIGNMENT OF CASES TO BOARD ADMINISTRATIVE LAW JUDGES - POLICY AND PROCEDURE COMMITTEE

- (1) Designate Marilyn Wong the Mandatory Settlement Conference Judge
- (2) Create an Alternative MSC Judge Assignment Log
- (3) Remove ALJ Wong from the Alternative Merits Judge Assignment Log
- (4) Remove ALJ Wong from the Alternative Law and Motion Hearing Judge Assignment Log

This matter was postponed until after Agenda Items 14-15.

11. **EXECUTIVE DIRECTOR'S REPORT**

- A. Administrative Matters.
- B. Case Management.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

This matter was postponed until after Agenda Items 14-15.

12. **SELECTION OF BOARD MEETING DATES FOR 2018**

This matter was postponed until after Agenda Items 14-15.

13. **PUBLIC COMMENT** (Gov. Code § 11125.7)

This matter was postponed until after Agenda Items 14-15.

14. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(a)(1), all members of the Board shall convene in a closed Executive Session.

- a. Discussion of a personnel matter - Executive Committee
- b. Discussion and Consideration of the Executive Director candidates - Executive Committee

The members convened in Closed Executive Session to discuss Agenda Item No. 14(a) and (b).

15. **OPEN SESSION**

The members of the Board returned to open session. Mr. Alvarez announced that the Board appointed Robin Parker as Interim Acting Executive Director until this position is filled. Ms. Doi indicated that Mr. Stevens so moved and Mr. Obando seconded the motion. The motion carried unanimously.

On behalf of the CNCDA, Heather Delamorton offered their condolences to the Board and staff.

4. **APPROVAL OF THE MINUTES FROM THE JULY 19, 2017, GENERAL MEETING, AND OCTOBER 2, 2017, SPECIAL MEETING**

Mr. Lizárraga moved to adopt the July 19, 2017, General Meeting minutes, and the October 2, 2017, Special Meeting minutes. Mr. Obando seconded the motion. The motion carried unanimously.

5. **DISCUSSION AND CONSIDERATION OF WHO WILL ATTEND THE OUT-OF-STATE TRIPS FOR THE 2ND HALF OF FISCAL YEAR 2017-2018 THAT WERE PREVIOUSLY APPROVED BY THE BOARD - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Dawn Kindel concerning who will attend out-of-state trips for the 2nd half of fiscal year 2017-2018. As indicated in the memo, at the January 18, 2017, General Board meeting, the Board members approved travel to the National Automobile Dealers Association Convention and Expo for the Executive Director and one Board member. This event will be held March 22-25, 2018, in Las Vegas, Nevada. The staff recommended that the Executive Director and one Board member attend this convention.

Miss Kindel indicated that all travel requests were initially denied but a separate request can be made to the Governor's office. As in previous years', Miss Kindel indicated that the Board could pay for any members' registration fees even in the absence of the approvals since it comes out of a different budget unrelated to travel.

Ms. Doi suggested that this matter be moved to the January 2018 meeting.

6. **ANNUAL UPDATE CONCERNING THE DEVELOPMENT AND USE OF THE BOARD'S WEBSITE - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Dawn Kindel updating the development and use of the Board's website. Miss Kindel reported that the Board's website continues to be popular and provide information to the public. She indicated that about 20 people utilized a feature that translates the Board's website into any language. Lastly, DMV continues to provide a significant amount of support to the Board.

As indicated in the memo, the chart below shows a comparison of the top 10 pages that were viewed during visits to the website during 2015/2016 and 2016/2017.

	Website Pages	2015/2016 Annual Hits		Website Pages	2016/2017 Annual Hits
1	Home Page	12,368		Home Page	14,910
2	Mediation	2,504		Mediation	2,989
3	Forms	1,231		Search	2,340
4	Search	837		Forms	1,114
5	Protest Statutes	776		Meetings and Agendas	877
6	Protests	752		March 2017 Board meeting	779
7	Board Members	668		Protests	762
8	Final Protest Decisions	636		Statutes	751
9	Meeting Agendas	604		Board Members	717
10	FAQs	511		Protest Decisions	648

7. ANNUAL REPORT ON BOARD DEVELOPMENT PROGRAM - BOARD DEVELOPMENT COMMITTEE

The members were provided with a memorandum from Danielle Vare reporting on the Board Development Program. Ms. Vare indicated that the staff is open to suggestions for member education next year and welcomed any input.

8. DISCUSSION REGARDING THE 2018 NEW MOTOR VEHICLE BOARD INDUSTRY ROUNDTABLE - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE

The members were provided with a memorandum from Danielle Vare concerning the 2018 Industry Roundtable. As indicated in the memo, the following are potential topics/speakers:

- "Joint employment" claims of dealership employees
- Case management statistics
- Manufacturer Performance Standards and the recent *Beck Chevrolet v. General Motors* case
- NMVB Case of First Impression: Manufacturer Export or Sale-for-Resale Policies
- Electric/Alternative Fuel Vehicles
- Autonomous Vehicles and their Regulation
- Update on the California Road Charge Pilot Program
- Incentive Programs and how dealers can achieve objectives as well as how manufacturers use them as leverage

Ms. Vare reported that the Roundtable will be held on May 17, 2018, in Sacramento. This is the day after the California New Car Dealers Association (CNCDA) Dealer Day event. The staff plans to send "save the date" cards in December to allow plenty of time for attendees to submit travel requests. Additionally, Ms. Vare reported that the location would be at the DMV headquarters in Sacramento.

Mr. Obando inquired about the Roundtable being held the day before Dealer Day in an effort to increase dealer attendance. Ms. Rusnak suggested that future Roundtables be shorter and perhaps not every year. By mixing it up a little, more interest may be generated. She also expressed concern for the staff given the circumstances. Ms. Doi thought that if the Dealer Members have any topics that would be of particular interest to other dealers then the Board could focus on that. Ms. Parker indicated Danielle would work with the committee and look at alternative dates and get additional details from the CNCDA concerning Dealer Day and report to the Board in January.

[After the meeting, it was ultimately decided after consulting with the Government and Industry Affairs Committee, that the Industry Roundtable would be postponed until 2019.]

9. **CONSIDERATION OF PROPOSED REGULATION AMENDING SECTION 551.12 (NOTICE OF ASSIGNMENT OF ADMINISTRATIVE LAW JUDGES; PEREMPTORY CHALLENGES) OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS - POLICY AND PROCEDURE COMMITTEE**

Ms. Doi suggested that this matter be postponed until after the Board hires an Executive Director.

10. **DISCUSSION AND CONSIDERATION OF PROPOSED REVISIONS TO THE ASSIGNMENT OF CASES TO BOARD ADMINISTRATIVE LAW JUDGES - POLICY AND PROCEDURE COMMITTEE**

- (1) Designate Marilyn Wong the Mandatory Settlement Conference Judge
- (2) Create an Alternative MSC Judge Assignment Log
- (3) Remove ALJ Wong from the Alternative Merits Judge Assignment Log
- (4) Remove ALJ Wong from the Alternative Law and Motion Hearing Judge Assignment Log

The members were provided with a memorandum from Robin Parker concerning proposed revisions to the assignment of cases to the Board's Administrative Law Judges. Ms. Parker reported that ALJ Wong has been extremely effective in settling the protests she presides over because of her expansive knowledge of the vehicle industry and decades of experience, which have resulted in six matters being resolved without a lengthy and costly merits hearing saving the Board 31 hearing days. Several other protests are on track for settlement.

Given ALJ Wong's success at settling cases, the staff recommended that she be designated the permanent Mandatory Settlement Conference ALJ. This allows the remaining judges to focus on merits hearings. If the Board authorizes this designation then an Alternative MSC Judge Assignment Log needs to be established in the event ALJ Wong is unavailable. Additionally, ALJ Wong requested that she be removed from the Alternative Merits Judge Assignment Log and the Alternative Law & Motion Judge Assignment Log so her focus would be exclusively on settlement.

Mr. Stevens moved to approve the staff recommendations. Ms. Doi seconded the motion. The motion carried unanimously.

11. **EXECUTIVE DIRECTOR'S REPORT**

- A. Administrative Matters.
- B. Case Management.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

Ms. Parker provided the members with the Executive Director's Report. She indicated that the ALJ training is going very well. There was in-office training and the new judges have observed most of the telephonic conferences and hearings for the past two months. There have been 35 protests dismissed and 53 protests filed this year. Ms. Parker commented that this is the most protests since 2010, when 85 protests were filed. There have been 44 notices of termination filed resulting in 15 termination protests.

Ms. Vare reported that two new protests were filed and two protests were dismissed since the members received this report. Additionally, there was no legislation to report on for 2017. The staff will continue to monitor and report to the Board.

With regards to court cases, Ms. Parker reported that there are only a couple pending and after this Executive Director's Report, all of the Mega RV/Roadtrek cases will be deleted.

12. SELECTION OF BOARD MEETING DATES FOR 2018

The members were provided with a memorandum concerning Board meeting dates for 2018. The members went off the record for this discussion.

Ms. Parker indicated that meetings have been set for January 24, 2018, March 13, 2018, and potentially May 16, 2018, in Sacramento.

13. PUBLIC COMMENT (Gov. Code § 11125.7)

Mr. Alvarez thanks the CNCDA for coming to the meeting. No additional public comment was presented.

16. ADJOURNMENT

With no further business to discuss, the meeting was adjourned at approximately 11:50 a.m.

Submitted by



ROBIN P. PARKER
Interim Acting Executive Director

APPROVED:



Ramon Alvarez C.
President
New Motor Vehicle Board